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11 Attorneys for Defendants RE/MAX REALTY  
 12 and JUDY ASHTON

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CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 \* \* \* \*

11 JUDY KROSHUS; BILL ADAMSON; SHARON )  
 12 ADAMSON; PANFILO "PHIL" AGUILAR; )  
 13 DONNA AGUILAR; AIR TECH HEATING & )  
 14 AIR, a Division of Spracklin Homes; JEMMELY )  
 15 ALMARJO; LORILLEE BABCOCK; THOMAS )  
 16 BAILIE; AMANDA BAILIE; THOMAS and )  
 17 AMANDA BAILIE, individually and on behalf of )  
 18 their minor child, ELIZABETH BAILIE; JOHN )  
 19 BECK; COLEEN BECK; JOHN and COLEEN )  
 20 BECK, individually and on behalf of their minor )  
 21 child, SEANDRA BECK; BENNAFIT )  
 22 INVESTMENTS; DENNIS BLAIR; BEVERLY )  
 23 BLAIR; WILLIAM BORRELLI; RACINE )  
 24 BRADY-MARTINEZ; STEVE BRONAUGH; )  
 25 JENNIFER BRONAUGH; STEVE and )  
 26 JENNIFER BRONAUGH, individually and on )  
 27 behalf of their minor child, STERLING )  
 28 BRONAUGH; MARK CARR; JOHN CAULK; )  
 MARTINIQUE CAULK; JOHN and )  
 MARTINIQUE CAULK, individually and on )  
 behalf of their minor children, JARED HIRES )  
 CAULK, JOHN HIRES CAULK and TAYLOR )  
 HIRES CAULK; SCOTT CHAPMAN; JANET )  
 CHAPMAN; EVERETT A. CIRIO; TOM W. )  
 COOK II; KATHLEEN M. COOK; JAMES )  
 CRUTCHER; BRANDY CRUTCHER; JAMES )  
 and BRANDY CRUTCHER, individually and on )  
 behalf of their minor children, JAKE CRUTCHER )  
 and MACKINNON CRUTCHER; ANGELA )  
 DANIEL; WILLIAM T. DANIEL; ANGELA and )  
 WILLIAM T. DANIEL, individually and on )  
 behalf of their minor children, JULIANA )  
 DANIEL and VANCE DANIEL; DOUGLAS D. )  
 DAVIS; RAMONA DAVIS; WILLIAM K. )  
 DAVIS; DIANE R. DAVIS; WILLIAM K. )

) CASE NO. 3:09-cv-00713

ORDER GRANTING  
 DEFENDANTS RE/MAX REALTY  
 PROFESSIONALS AND JUDY  
 ASHTON'S MOTION FOR GOOD  
 FAITH DETERMINATION

10  
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1 DAVIS and DIANE R. DAVIS, individually and )  
 2 on behalf of their minor child, FELICIA R. )  
 3 DAVIS; J. WENDELL DAVIS; LORRAINE C. )  
 4 DAVIS; PAMELA M. DOERR; JOHN E. )  
 5 DOHM; DONNA L. DOHM; PATRICK DOYLE; )  
 6 LORI DOYLE; PATRICK and LORI DOYLE, )  
 7 individually and on behalf of their minor children, )  
 8 JOSHUA DOYLE and TANNA DOYLE; )  
 9 SHERRE GONZALES; JEREMY GOTTLIEB; )  
 10 WARREN GRAY; BARBARA GRAY; DARYL )  
 11 R. GROVER, JR.; DARYL R. GROVER, JR., )  
 12 individually and on behalf of his minor child, )  
 13 PATRICK GROVER; RICHARD HARGETT; )  
 14 LINDA HARGETT; ROSEMARY HIGGINS; )  
 15 ROLF G. HODAPP; MICHAEL A. )  
 16 HUMPHREY; KIM JAMES; MICHAEL JONES; )  
 17 KILITA JONES; MANFRED JURGEIT; JEANIE )  
 18 JURGEIT; LYNN KANTOR; DAN KANTOR; )  
 19 LINDA KANTOR; BRANDON KNAPP; )  
 20 TRACY KNAPP; JUSTIN KNOX; CHERIE )  
 21 KNOX; JUSTIN and CHERIE KNOX, )  
 22 individually and on behalf of their minor child, )  
 23 CORA KNOX; PHILIP KNOX; SUZANNE )  
 24 KNOX; JULIE LANE; DAN LAWSON; )  
 25 LORRAINE LAWSON; LESLIE LEVERETT; )  
 26 ESTHER LEVINE; JOHN LINDENMEIER; LEO )  
 27 LINDENMEIER; NANCY LINDENMEIER; )  
 28 LEZLIE M. LUCAS; JASON E. MARICH; )  
 1 DAVID C. MARSHALL; LEROY MARX; )  
 2 LEROY MARX, individually and on behalf of his )  
 3 minor child, DESTINY MARX; MELANIE )  
 4 McADAM; HILLARY McADAM; ROBERT )  
 5 McADAM; WESLEY McKNIGHT; KATHLEEN )  
 6 McKNIGHT; GARY R. MEIKLE; CARMEN )  
 7 MEIKLE; LARRY MEIKLE; TERRI MEIKLE; )  
 8 RICHARD MEPPEN; FRED MESI; BETTY )  
 9 MESI; ERIC MESI; DENNIS MORELLI; )  
 10 MARCIA MORELLI; DIANNE MORSE; )  
 11 BRUCE E. NAGEL; JEANNETTE M. NAGEL; )  
 12 JOSEPH NEFF; MELISSA NEFF; JOSEPH and )  
 13 MELISSA NEFF, individually and on behalf of )  
 14 their minor children, SEAN R. NEFF and )  
 15 KATELYN NEFF; ADRIAN NORIEGA; MARY )  
 16 NORIEGA; ADRIAN and MARY NORIEGA, )  
 17 individually and on behalf of their minor children, )  
 18 ASA NORIEGA; ADRIANA NORIEGA, )  
 19 ANDREW NORIEGA and AUSTIN NORIEGA; )  
 20 TRAVIS PATTERSON; JENNIFER )  
 21 PATTERSON; BRIAN PEAVEY; CRISTINA )  
 22 PEREZ; CHARLES J. PRESNELL; RUSSELL L. )  
 23 PUCKETT; PABLO QUINTERO; PABLO )  
 24 QUINTERO and JEMMELY ALMARIO, )  
 25 individually and on behalf of their minor children, )  
 26 JEMADREA QUINTERO; JESSALYN )  
 27 QUINTERO and PABLO F. QUINTERO, JR.; )

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1 JAMES REED; TERESA REED; JAMES and )  
2 TERESA REED, individually and on behalf of )  
3 their minor children, JULIAN REED and ALEXIS )  
4 REED; BERT REINSMA; PATRICIA )  
5 REINSMA; JESUS RODRIGUEZ; MONICA )  
6 RODRIGUEZ; JESUS and MONICA )  
7 RODRIGUEZ, individually and on behalf of their )  
8 minor children, JESUS RODRIGUEZ, JR., )  
9 JOSUE RODRIGUEZ; LIBNI RODRIGUEZ; )  
10 SIRIA RODRIGUEZ; FRANK ROGERS; )  
11 JUDITH ROGERS; LUIS M. ROJAS; GLORIA )  
12 M. ROJAS; LUIS J. ROJAS; PATRICIA A. )  
13 ROJAS; GARY ROMA; H. LANE ROSE, II; )  
14 DEBORAH SUE ROSE; DAVID SHIELDS; )  
15 RHONDA SHIELDS; DAVID SHIELDS, JR.; )  
16 DAVID SHIELDS, JR., individually and on behalf )  
17 of his minor child, ANNALYSE HOPE )  
18 SHIELDS; DANIEL SOLACHE; BARBARA D. )  
19 SPECCHIO; JOSEPH A. SPECCHIO, JR.; )  
20 SPRACKLIN HOMES; SPRACKLIN )  
21 CONSTRUCTION; SPRACKLIN TILE & )  
22 STONE; SCOTT SPRACKLIN; DENISE )  
23 SPRACKLIN; WESLEY STALIONS; MISTY )  
24 STALIONS; WESLEY and MISTY STALIONS, )  
25 individually and on behalf of their minor child, )  
ANGELICA B. STALIONS; RANDALL )  
STAUBS; STEVIE STAUBS; DAVID )  
STEPHAN; LINDA STEPHEN; DAVID and )  
LINDA STEPHAN, individually and on behalf of )  
their minor children, HALEY STEPHAN and )  
JOHN STEPHAN; EDWARD J. STEVENS; )  
CONNIE STEVENS; DEREK TAYLOR; )  
JENNIFER TAYLOR; DEREK and JENNIFER )  
TAYLOR, individually and on behalf of their )  
minor children, ISABEL TAYLOR and CONNOR )  
TAYLOR; MICHAEL TEETER; KIM )  
THROCKMORTON; JIM THROCKMORTON; )  
KIM and JIM THROCKMORTON, individually )  
and on behalf of their minor children, BRAD )  
BEATON and KYLE THROCKMORTON; )  
DAVID M. TRIPP; VIRGINIA TRIPP; )  
JENNIFER VAUGHAN; JENNIFER )  
VAUGHAN, individually and on behalf of her )  
minor children, TOMMY HAYES and AUSTIN )  
VAUGHAN; WES W.R. WARN; ROLAINA )  
WARN; BARBARA WILSON and ROBERT )  
WILSON, on behalf of themselves and all other )  
persons similarly situated,

26 Plaintiffs,

27 v.  
28 UNITED STATES OF AMERICA,  
DEPARTMENT OF THE INTERIOR through its

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A Professional Corporation  
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1 BUREAU OF RECLAMATION, MID-PACIFIC  
2 REGION, CARSON CITY OFFICE, KEN  
3 SALAZAR, Secretary of the Interior, KENNETH  
4 PARR, Director of the Carson City Office of the  
5 Bureau of Reclamation, TRUCKEE-CARSON  
6 IRRIGATION DISTRICT, DAVID P.  
7 OVERVOLD, CITY OF FERNLEY, COUNTY  
8 OF LYON, CHRH, LTD.; GARY HUTCHINGS,  
9 RICHARD HUTCHINGS, C.A.L. INVESTMENT  
10 PROPERTIES, KING CONSTRUCTION, CAL  
11 EILRICH, DINAH EILRICH, GREATER  
12 NEVADA BUILDERS, STEVEN F. CAMPOY,  
13 CRISP DEVELOPMENT, INC., V POINT  
14 ENGINEERING AKA TRC ENGINEERING,  
15 INC., MARTIN UGALDE, ROBERT BIDART,  
16 MICHAEL BIDART, KEYSTONE REALTY,  
17 REMAX REALTY, JUDY ASHTON, DAN  
18 ANDERSON, LL REALTY, and COLDWELL  
19 BANKER (Fernley, Nevada),  
20  
21 Defendants.

**ORDER GRANTING DEFENDANTS RE/MAX  
REALTY PROFESSIONALS AND JUDY ASHTON'S  
MOTION FOR GOOD FAITH DETERMINATION**

Defendants REALTY PROFESSIONALS, INC. doing business as RE/MAX REALTY PROFESSIONALS ("RE/MAX Realty Professionals") and JUDY ASHTON's ("Ashton") (collectively "RE/MAX Realty Professionals Defendants") Motion for Good Faith Determination having come on for hearing on the 29<sup>th</sup> day of July, 2011, Zachary J. Thompson, Esq. of the law firm OLSON, CANNON, GORMLEY & DESRUISSEAUX appearing on behalf of the RE/MAX Realty Professionals Defendants, and Robert Maddox of the law firm of MADDOX & ASSOCIATES, Calvin R.X. Dunlap, of the firm of DUNLAP & LAXALT, Eugene Leverty, LEVERTY & ASSOCIATES, Robert Hager of the firm HAGER & HEARNE, and Lee Hotchkins, Esq. appearing on behalf of the Plaintiff class, and the Court having considered the papers and pleadings on file herein, and having heard oral argument,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. The Court has considered the factors discussed in *Velsicol Chemical Corp. v. Davidson*, 107 Nev. 356, 811 P.2d 561 (1991).

— 8 —

1           2. The Court has considered the factors discussed in *The Doctors Co. v. Vincent*, 120  
 2 Nev. 644, 652, 98 P.3d 681, 687 (2004).

3           3. The Court has considered the factors discussed in *MGM Grand Hotel Fire*, 570  
 4 F.Supp. 913 (D.Nev. 1983).

5           4. The Court has considered the settlement amount of \$12,000 between Plaintiffs and  
 6 the RE/MAX Realty Professionals Defendants, which is to be paid from insurance funds. The  
 7 Court finds that the settlement amount is reasonable and sufficient.

8           5. The Court has considered the damages claimed by Plaintiffs, and it has considered  
 9 the risks of proceeding on both sides. The Court finds that there is a strong potential that  
 10 RE/MAX Realty Professionals and Ashton would be able to prevail against the Plaintiffs' claims  
 11 pursuant to NRS Chapter 645.

12           6. The Court has considered whether there was collusion or fraud relating to the  
 13 settlement. The Court finds that there was no collusion or fraud relating to the settlement between  
 14 Plaintiffs and RE/MAX Realty Professionals. The settlement amount was arrived at through arms  
 15 length negotiations.

16           7. The Court has considered the financial condition of the settling defendants and the  
 17 insurance coverage of the settling defendants. RE/MAX Realty Professionals is a defunct Nevada  
 18 corporation. The entity is insured, and the insurance is sufficient to cover the settlement. The  
 19 Court finds the settlement amount reasonable and sufficient in light of the insurance coverage.

20           8. The Court has considered the strength and weaknesses of potential contribution  
 21 and indemnity claims. The Court holds that the RE/MAX Realty Professionals Defendants  
 22 would be able to show that they did not have active fault. The Court finds that potential claims  
 23 for contribution and equitable indemnity do not weigh in favor of denying good faith.

24           9. The settlement agreement between Plaintiffs and the RE/MAX Realty  
 25 Professionals Defendants satisfies the factors set forth in *Velsicol Chemical Corp. v. Davidson*,  
 26 107 Nev. 356, 811 P.2d 561 (1991), *The Doctors Co. v. Vincent*, 120 Nev. 644, 652, 98 P.3d 681,  
 27 687 (2004), and *MGM Grand Hotel Fire*, 570 F.Supp. 913 (D.Nev. 1983).

28           ...

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1           10. The settlement agreement between Plaintiffs and the RE/MAX Realty  
2           Professionals Defendants was entered into in good faith.

3           11. No opposition, written or oral, was received to RE/MAX Realty Professionals  
4           Defendants' Motion for Good Faith Determination.

5           12. The RE/MAX Realty Professionals Defendants' Motion for Good Faith  
6           Determination is hereby granted in its entirety.

7           13. All claims, whether known or unknown, against RE/MAX Realty Professionals  
8           Defendants for contribution and/or equitable indemnity are hereby extinguished pursuant to NRS  
9           17.245.

10           IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

11           1. RE/MAX Realty Professionals and Judy Ashton's Motion for Good Faith  
12           Determination is hereby granted, each party to bear their own attorneys' fees and costs;

13           2. All claims, whether known or unknown, against RE/MAX Realty Professionals  
14           and Judy Ashton for contribution and/or equitable indemnity are hereby extinguished.

15           DATED this 15th day of November, 2011.



16           17           18           UNITED STATES MAGISTRATE JUDGE

19           SUBMITTED BY:

20           OLSON, CANNON, GORMLEY &  
21           DESRUISSEAUX

22           By

23           MICHAEL E. STOBERSKI, ESQ.  
24           Nevada Bar No. 004762  
25           ZACHARY J. THOMPSON, ESQ.  
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            Attorneys for Defendants RE/MAX REALTY  
            and JUDY ASHTON